IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO.615 OF 2005

In the matter of the provisions of the Indian Companies Act, 1956

And

In the matter of Sections 433 and 434 of Companies Act, 1956,

And

In the mater of M/s. Day and Night Publicity & Advertising Pvt. Ltd., a company registered under the Companies Act, having its registered office at 102/1, Siddeshwar, Tilak Road, Ghatkopar (E), Mumbai 400 077.

Prime Outdoors,
A Division of Prime Time
IP Media Services Pvt. Ltd. ..Petitioner.

Mr.Atul Damle for the Petitioner.
None for the Respondents.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD FEBRUARY, 2006

P.C. :

According to the Petitioner, the Respondent Company is indebted to it in the sum of Rs.5,23,800/-. The Petitioner had paid a sum of Rs.4,00,000/- and a sum of Rs.4,68,750/- to the Respondent Company towards charges for display of

advertisement on the Central Railway and Western Railway trains. In addition thereto, the Petitioner also paid an aggregate amount of Rs.1,70,000/- towards painting and repairing charges. In addition thereto, the Petitioner has also paid Rs.83,100/- towards service tax at the rate of 8% for both the displays.

2. The Respondent Company implemented the contract in respect of the Western Railways but was unable to do so in respect of the Central Railways in view of the policy regarding carrying advertisements of liquor products.

3. The Railways have by their letter dated 17.2.2005 (Exhibit "J" to the petition) confirmed that no payment had been made by the Respondent Company in respect of the said advertisement either.

4. Despite the statutory notice, the Respondent Company has failed to refund the amounts in respect of the charges regarding the display of advertisements on the Central Railway Trains.

5. There is no affidavit in reply. There appears to be no defence to the Petitioner’s case. I,

however, do not intend admitting the petition without affording an opportunity to the Respondent Company of paying the amounts due.

6. In the circumstances, the following order is passed :

i) In the event of the Respondent Company paying to the Petitioners a sum of Rs.5,23,800/- on or before 20.4.2006, the Petition to stand dismissed.

ii) In case of failure on the part of the Company to deposit the aforesaid amount within time limit, the petition shall stand admitted and to be advertised in Free Press Journal, Navshakti and Maharashtra Government Gazette. The Petitioner to deposit an amount of Rs.2,000/- with Prothonotary and Senior Master of this Court within four weeks from the date of default.

All parties to act on a certified copy of this order.